



STATE OF SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS

PROFESSIONAL EMPLOYER ORGANIZATIONS

Mailing Address

P.O. Box 5757
Columbia, SC 29250-5757

S.C. Code Ann. § 40-68-10 et seq.

www.sccconsumer.gov

(803) 734-4200

Street Address

3600 Forest Drive
Columbia, SC 29204-4006

APPLICATION FOR PROFESSIONAL EMPLOYER ORGANIZATION RESTRICTED LICENSE (New or Renewal)

(Complete all parts of this Application)

Please submit an original and one (1) copy of the Application in ring binders.

All information should be reduced to 8½ x 11 size and arranged in the order set forth in the Application form.

Please carefully review the instructions listed below for eligibility requirements. The application fee must be enclosed and is NOT refundable. Applications cannot be processed without the required application fee. The screening process may take as much as 90 days from the time this office receives the completed application, all required documentation, and appropriate fees. The Restricted License fee for Professional Employer Organizations (PEO) is: Five Hundred Dollars (\$500.00) for each PEO and One Thousand Dollars (\$1,000.00) for each PEO Group. All restricted licenses are valid for a period of two (2) years from the date of issuance. Please make all checks payable to the **South Carolina Department of Consumer Affairs**.

South Carolina law permits the Department to issue a restricted license to a nonresident PEO or PEO Group for limited operation in this State if: (1) the applicant's state of residence provides for licensing of PEOs, the applicant is licensed and in good standing in its state of residence, and the applicant's state of residence grants a similar privilege for restricted licensing to PEOs or PEO Groups that are residents in South Carolina; (2) the applicant does not maintain an office, sales force, or representatives in this State, and it does not solicit clients that are residents in this State; and (3) the applicant does not have more than forty (40) leased employees working in this State.

An applicant for a restricted license is exempt from the requirements of South Carolina Code § 40-68-40(F). An applicant for a restricted license is required to retain and appoint a recognized and approved entity as its attorney to receive service of legal process issued against it in this State.

Pursuant to the provisions of South Carolina Code § 40-68-10 et seq. (2001) as amended, the undersigned hereby makes the following statements for the purpose of obtaining a Restricted License to conduct business as a Professional Employer Organization (PEO) in the State of South Carolina.

Name of PEO or PEO Group: _____ Date of Organization: _____

SC License #: _____ (renewal) _____ Unemployment Compensation Account#: _____

Federal ID #: _____ State ID #(withholding): _____

Business Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Web site: _____

Please indicate the type of license requested:

☐ New Restricted PEO License
☐ Restricted PEO License Renewal

☐ New Restricted PEO Group License
☐ Restricted PEO Group License Renewal

Name of Primary
Contact Person:

Business Address:

City: _____ State: _____ Zip: _____

Telephone No.: _____ Fax No.: _____

E-Mail Address: _____

Name of Secondary
Contact Person:

Business Address:

City: _____ State: _____ Zip: _____

Telephone No.: _____ Fax No.: _____

E-Mail Address: _____

* Please provide the contact information requested below for the applicant's current agent for service of process as registered with the South Carolina Secretary of State's office. If you are not already registered, an Application for a Foreign Corporation for a Certificate of Authority to Transact Business in the State of South Carolina can be found on the South Carolina Secretary of State's web site at www.scsos.com.

Name of Current
South Carolina
Agent for Service
of Process:

Business Address:

City: _____ State: _____ Zip: _____

Telephone No.: _____ Fax No.: _____

E-Mail Address: _____

Organizational Structure

- ☐ Corporation ☐ Limited Liability Company
☐ General Partnership ☐ Limited Partnership ☐ Sole Proprietorship
☐ Other (specify) _____

- * Does the applicant maintain an office, sales force, or representatives in South Carolina? ☐ Yes ☐ No
- * Does the applicant solicit clients that are residents of South Carolina? ☐ Yes ☐ No
- * How many leased employees does applicant have working in South Carolina? Please provide a list of all leased employees using the ***Restricted License List of Leased Employees (Form PEO-16)***. _____

State of Residency

- * What is your company's state of residence and/or incorporation? _____
- * Attach a copy of your company's PEO license or certificate from your state of residency.
- * Is your company in good standing in its state of residency? If yes, attach a copy of a letter of good standing from the licensing authority. If no, please explain. ☐ Yes ☐ No
- * Does your state of residency provide for a restricted PEO license for out of state companies similar to the one granted in South Carolina? If yes, attach a copy of your state statute or regulation that grants this privilege to your application. ☐ Yes ☐ No

SOUTH CAROLINA CLIENT COMPANIES

Provide a list of all client companies in South Carolina. This information should be provided using either the ***Client Company List (Form PEO-07)*** or in a report that you generate provided, however, that all of the information requested in the table below is included in the separate report. Additions or deletions of clients should be reported to the Department within 30 days.

Client Company				FEIN		
Contact Person						
Mailing Address						
City			State		Zip:	
Telephone Number			Fax Number			
Number of Assigned Employees		Date Relationship Initiated		Workers' Compensation Business Classification Code		
Workers' Compensation Carrier/Policy #			Health Insurance Carrier/Policy #			

OTHER INFORMATION

1. Employment Tax Compliance Letters

This information is required for all restricted license renewals and for applicants for a new restricted license that have commenced operations prior to obtaining a license.

South Carolina law requires PEO licensees to assume responsibility for the payment of payroll taxes and for collection of taxes from payroll on assigned employees. In order to confirm that this obligation has been satisfied, the Department requires applicants for PEO licenses to obtain letters of good standing or employment tax compliance letters prior to issuing a license to provide PEO services in the State of South Carolina. Applicants should request the "letter of good standing" from the Internal Revenue Service and the South Carolina Department of Revenue. **The letters should be requested from the following addresses for payroll periods ending no earlier than sixty (60) days prior to the date of the filing of this application.**

Internal Revenue Service
Field Assistance – MDP32
1835 Assembly Street
Columbia, SC 29201

S.C. Department of Revenue
Tax Compliance Officer
Columbia, SC 29214-0027

In your letter to the IRS, indicate that you are requesting compliance status on employment tax return Forms 941 and 940 and provide your federal ID number. Your letter of request to the SCDOR must indicate the PEO's South Carolina withholding account number.

The taxing authorities will mail the compliance letters back to you. **Applicants should forward the ORIGINAL letter from those agencies to the Department for inclusion with their application for licensure.**

2. Insurance Benefits

Are the following insurance benefits provided to any leased employees in the State of South Carolina?

Workers' Compensation	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Health/Medical/Dental	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Life	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Disability	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If the answer to any of the above is yes, Applicant must provide:

- (a) a new **Health Insurance Affidavit of Insurance (Form PEO-08)** completed by each of the Applicant's current Insurance Carrier(s);
- (b) a new **Workers' Compensation Affidavit of Insurance (Form PEO-09)** completed by each of the Applicant's current Insurance Carrier(s);
- (c) proof of workers' compensation insurance with an **ORIGINAL** Certificate of Insurance from a carrier properly licensed by the South Carolina Department of Insurance;
- (d) a new **Insurance Certification (Form PEO-10)**, which must be signed by a controlling person.
- (e) a completed **Insurance Schedule (Form PEO-11)** showing all current policy information;
- (f) a copy of each benefit plan or policy, including the declaration page;
- (g) a copy of all insurance benefits information that is provided to leased employees for all benefit plans;

NOTICE

MULTIPLE COORDINATED POLICIES. The South Carolina Department of Insurance has adopted a ruling by the NCCI that requires Professional Employer Organizations (PEOs) in the assigned risk market in South Carolina to operate under Multiple Coordinated Policies (MCP) for workers' compensation insurance coverage. These policies require a PEO to apply for a policy in its own name for direct employees. The rule then requires the PEO to apply for coverage for each of its clients to cover employees leased to those clients. Policies are applied for in the client company name as the insured. The policies are then "coordinated" and the leasing company is billed for premiums with copies sent to client companies. If you are currently operating under a non-multiple coordinated policy, please contact your insurance carrier regarding this ruling. A copy of this ruling is available on our web site at www.sccconsumer.gov.

Are the premiums on all policies you listed on the **Insurance Schedule (Form PEO-11)** due as of the date of this Application paid in full?

☐ Yes ☐ No

If the answer to the previous question is NO, are the unpaid amounts in dispute with your insurance carrier?

☐ Yes ☐ No

If any amounts are in dispute, please list the name of the carrier(s), the policy number(s), the period(s) covered, and the amount(s) in dispute.

South Carolina Code § 40-68-70 (B) requires PEOs that provide workers' compensation insurance to client companies, before executing a service contract and on an annual basis, to conduct a good faith investigation to determine if the client company engages any nonassigned employees, including those considered employees under Title 42, in any part of the client company's trade, business, or occupation. The law also requires that upon a determination that a client company does include nonassigned employees, the service contract must require the client company to secure and maintain workers' compensation insurance. Have you conducted such an investigation with regard to each of your client companies within the past year?

☐ Yes ☐ No

South Carolina Code § 40-68-70 (D) requires a PEO to report the information derived from these investigations to its workers' compensation carrier. Have you made such reports in the past year?

☐ Yes ☐ No

4. Financial Statements

Applicants must attach a copy of the company's most recent Audited or Reviewed Financial Statement. The statement must be for annual periods ending no earlier than one year prior to the date of this Application, and shall be attested to by an independent Certified Public Accountant. If the financial statements submitted are dated more than 180 days before the date of this Application, the Applicant must certify to the Department that there have been no material adverse changes in the financial position of the company since the date of the last financial statements, and shall provide a copy of the next financial statement as soon as it becomes available. **For renewal purposes only**, companies with less than \$7,500,000.00 in gross South Carolina payroll may submit Reviewed Financial Statements. Please indicate the type of financial statements being submitted below. Information supplied regarding net worth is proprietary and confidential and is exempt from disclosure to third parties.

NOTE: All applicants must demonstrate a net worth of at least \$50,000.00. Pursuant to South Carolina Code § 40-68-40 (E), deficiencies in the net worth requirement as demonstrated by the Audited or Reviewed Financial Statements may be satisfied through guarantees, letters of credit, or other security acceptable to the Department in a combined total amount of at least \$50,000.00. A guaranty is not acceptable unless the Applicant submits sufficient evidence to satisfy the Department that the guarantor has adequate resources to satisfy the obligations of the guaranty.

Please indicate which type of financial statement is being provided:

☐

Audited Financial Statement

☐

Reviewed Financial Statement

Date of Financial Statement: _____

Pursuant to Regulation 28-940, quarterly reports for financial income statements and balance sheets will be due for each quarter (3/31, 6/30, 9/30 and 12/31) within 75 days after the end of each quarter on a going forward basis after issuance of a license. In these reports, licensees must demonstrate that premiums for health insurance, life insurance, workers' compensation and other employee benefits have been paid to the proper payee; that working capital is in a positive position, and; that federal, state, and local payroll taxes have been paid as required by the regulations of each taxing authority. In addition, each restricted licensee must provide a statement signed by a controlling person that the licensee has employed no more than 40 leased employees in South Carolina during the preceding quarter.

5. Service Agreement

Please submit a copy of your master service agreement, plus copies of all agreements with client companies which differ from that master agreement in any substantive respect, highlighting the differences, e.g. if any of the PEO's client companies elect to obtain and be responsible for their own workers' compensation or health insurance, the service agreement with that client must clearly demonstrate that intent.

In addition, South Carolina law requires an applicant for a PEO license to provide a written explanation of this agreement to each assigned employee by delivering it to the employee personally within ten days after executing the agreement. The explanation must state, substantially, the terms of the agreement between the licensee and the client company and include the same notice that is required to be posted in the client company's place of business by South Carolina § 40-68-60 (C). **Please provide a copy of this written explanation as an attachment to your application.**

CONTROLLING PERSONS, OFFICERS AND DIRECTORS

IMPORTANT: Fill out each section completely. All persons who qualify as a controlling person pursuant to South Carolina Code § 40-68-10 (4), as amended, must be listed below. Changes in controlling persons should be reported to the Department within 30 days.

ANY CONTROLLING PERSON(S) NOT PREVIOUSLY LICENSED IN SOUTH CAROLINA MUST EACH SUBMIT A CONTROLLING PERSON APPLICATION (FORM PEO-03) ALONG WITH A \$100 APPLICATION FEE.

CONTROLLING PERSON APPLICANTS ASSOCIATED WITH A PEO SEEKING A RESTRICTED LICENSE MUST PROVIDE THE EMPLOYMENT INFORMATION REQUESTED ON PAGE 5 OF FORM PEO-03, BUT ARE EXEMPT FROM THE TWO YEAR PRIOR EXPERIENCE REQUIREMENT. SUCH APPLICANTS ARE ALSO EXEMPT FROM THE CONTINUING EDUCATION REQUIREMENTS LISTED ON PAGE 10 OF FORM PEO-03.

Corporations: If the applicant is owned by another corporate entity, please list any officers of the parent firm and the ultimate owners (natural persons) in the tables below that qualify as controlling persons, as defined in South Carolina Code § 40-68-10 (4), and attach an organizational chart.

Controlling Persons Based on Ownership:

Please list the names of all persons or entities who directly or indirectly own, control, hold with the power to vote, or hold proxies representing ten percent (10%) or more of the voting securities of the Applicant. If necessary, attach additional sheet(s) providing the same information requested below.

Full Name And Address	Date of Birth (mm-dd-yyyy)	% Ownership	SSN #/FEIN *

***** **Compliance Note:** The Family Independence Act of 1995 required the South Carolina Department of Social Services – Child Enforcement Division (Division) to operate a license revocation program for the purpose of enforcing and establishing child support. In accordance with this Act, South Carolina law (§ 20-7-944) requires that all licensing entities submit to the Division licensee data for all new and renewal licenses issued. Therefore, identifying information (i.e., name, social security number and date of birth, etc.) for all controlling persons licensed with this renewal application will be forwarded to the Division upon the issuance of each controlling person's license. Personal information will not be used for any other purpose and is not subject to disclosure under the South Carolina Freedom of Information Act. South Carolina Code § 30-4-10 et seq

Officers, Directors and Controlling Persons Based on Position:

Please list the names and titles/positions of all officers, directors and any person who is a controlling person based on their position with the Applicant. If necessary, attach additional sheet(s) providing the same information requested below.

Full Name And Address	Title/Position	Date of Birth (mm-dd-yyyy)	SSN #

APPLICANT BUSINESS HISTORY

If any question is answered "Yes", please attach separate page(s) detailing the circumstances (including any applicable details such as state, license number, dates, etc.)

1. Have any of the Applicant's existing or proposed controlling persons been convicted or found guilty of any misdemeanors or felonies (with the exception of minor traffic violations) in any jurisdiction or territory in the United States?

☐ Yes ☐ No

2. Has either the Applicant or any of its existing or proposed controlling persons been refused a license, registration, or certification as a PEO, PEO group, or controlling person, or renewal thereof, in any jurisdiction or territory in the United States?

☐ Yes ☐ No

3. Has either the Applicant or any of its existing or proposed controlling persons had a license revoked, suspended, or otherwise acted against (including probation, fine, or reprimand) in a disciplinary action in any jurisdiction or territory in the United States?

☐ Yes ☐ No

4. Has either the Applicant or any of its existing or proposed controlling persons been involved in or owned an interest in a PEO or PEO group that has been adjudicated bankrupt, filed proceedings under the Bankruptcy Act, or has otherwise closed due to insolvency?

☐ Yes ☐ No

5. Are any of the licenses, registrations, or certifications of the Applicant or any of its existing or proposed controlling persons currently under investigation or currently pending disciplinary action in any jurisdiction or territory in the United States?

☐ Yes ☐ No

6. Has the Applicant or any of its existing or proposed controlling persons ever failed to satisfy any tax liabilities?

☐ Yes ☐ No

7. Has the Applicant or any of its existing or proposed controlling persons ever had a lien or levy placed against it/them?

☐ Yes ☐ No

8. Has the Applicant or any of its existing or proposed controlling persons been the subject of an indictment or a "cease and desist" order in any jurisdiction or territory in the United States?

☐ Yes ☐ No

9. Has the Applicant or any of its existing or proposed controlling persons been the subject of any state or federal government investigation or audit regarding the payment of wages or taxes; the funding or administration of any employee benefit plan or workers' compensation program; employment practices; licensing or registration; or any other matter arising out of a complaint filed by an employee, client, insurer, regulator or another PEO?

☐ Yes ☐ No

10. Has the Applicant or any of its existing or proposed controlling persons ever been the subject of a governmental investigation?

☐ Yes ☐ No

11. Is the Applicant or any of its existing or proposed controlling persons currently disputing any material obligations to an insurance carrier, benefit administrator or trust, or taxing authority?

☐ Yes ☐ No

12. Is there any litigation or legal proceeding currently pending or threatened against the Applicant or any of its existing or proposed controlling persons in any jurisdiction or territory in the United States?

☐ Yes ☐ No

13. Is the Applicant delinquent, as of the date of application, with respect to any of its obligations of payroll, payroll related taxes, workers' compensation insurance or employee benefits in any jurisdiction or territory in the United States?

☐ Yes ☐ No

AFFIDAVIT OF APPLICANT

I swear or affirm and certify that I have completed and/or reviewed all information on this form and submitted with this Application, and to the best of my knowledge and belief, all information contained herein is true, correct and complete; and that there are no material omissions of fact which would have a bearing upon the South Carolina Department of Consumer Affairs' decision to grant the requested license. I further certify that I understand that giving false information constitutes cause for denial or revocation of the application and subjects me to criminal prosecution for perjury. I acknowledge that I have a duty and agree to update and correct this information as it changes.

Signature

Date

Type or Print your name and Title

SWORN TO AND SUBSCRIBED before me

this _____ day of _____, 20_____

(SEAL)

Notary Public For _____

My Commission Expires:

The completed Application should be submitted to:

South Carolina Department of Consumer Affairs
Attn: PEO Licensing and Regulation
P.O. Box 5757
Columbia, SC 29250-5757

Do not fax this form. An original, signed and notarized form is required.

The South Carolina Freedom of Information Act may require the Department of Consumer Affairs to release this form as a public record; however personal identifying information will be released only if required by law.